

## CHAPTER 231

## DEPARTMENT ON AGING — OLDER IOWANS

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## SUBCHAPTER I

## FINDINGS, POLICY, AND DEFINITIONS

**231.1 Short title.**

This chapter, entitled the “*Older Iowans Act*”, sets forth the state’s commitment to its older individuals, their dignity, independence, and rights.

86 Acts, ch 1245, §1001

C87, §249D.1

C93, §231.1

2009 Acts, ch 23, §12

**231.2 Legislative findings and declaration.**

The general assembly finds and declares that:

1. Iowa’s older individuals constitute a fundamental resource which has been

undervalued, and the means must be found to recognize and use the competence, wisdom, and experience of such older individuals for the benefit of all Iowans.

2. The number of persons in this state age sixty and older is increasing rapidly, and of these older individuals, the number of women, minorities, and persons eighty-five years of age or older is increasing at an even greater rate.

3. The social and health problems of older individuals and their caregivers are compounded by a lack of access to existing services and by the unavailability of a complete range of services in all areas of the state.

4. The ability of older individuals to maintain self-sufficiency and to live their lives with dignity, productivity, and creativity is a matter of profound importance and concern for this state.

86 Acts, ch 1245, §1002

C87, §249D.2

C93, §231.2

2009 Acts, ch 23, §13

### **231.3 State policy and objectives.**

The general assembly declares that it is the policy of the state to work toward attainment of the following objectives for Iowa's older individuals:

1. An adequate income.
2. Access to physical and mental health care without regard to economic status.
3. Suitable housing that reflects the needs of older people.
4. Full restorative services for those who require institutional care, and a comprehensive array of home and community-based, long-term care services adequate to sustain older people in their communities and, whenever possible, in their homes, including support for caregivers.
5. Pursuit of meaningful activity within the widest range of civic, cultural, educational, recreational, and employment opportunities.
6. Suitable community transportation systems to assist in the attainment of independent movement.
7. Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.

8. Freedom from abuse, neglect, and exploitation.

86 Acts, ch 1245, §1003

C87, §249D.3

C93, §231.3

2003 Acts, ch 141, §1; 2005 Acts, ch 45, §2; 2009 Acts, ch 23, §14

### **231.4 Definitions.**

1. For purposes of this chapter, unless the context otherwise requires:
  - a. "*Administrative action*" means an action or decision made by an owner, employee, or agent of a long-term care facility, or by a governmental agency, which affects the service provided to residents covered in this chapter.
  - b. "*Assisted living program*" means a program which provides assisted living as defined pursuant to section 231C.2 and which is certified under chapter 231C.
  - c. "*Commission*" means the commission on aging.
  - d. "*Department*" means the department on aging.
  - e. "*Director*" means the director of the department on aging.
  - f. "*Elder group home*" means elder group home as defined in section 231B.1 which is certified under chapter 231B.
  - g. "*Equivalent support*" means in-kind contributions of services, goods, volunteer support time, administrative support, or other support reasonably determined by the department as equivalent to a dollar amount.
  - h. "*Federal Act*" means the Older Americans Act of 1965, 42 U.S.C. § 3001 et seq., as amended.
  - i. "*Home and community-based services*" means a continua of services available in an

individual's home or community which include but are not limited to case management, homemaker, home health aide, personal care, adult day, respite, home delivered meals, nutrition counseling, and other medical and social services which contribute to the health and well-being of individuals and their ability to reside in a home or community-based care setting.

j. “*Legal representative*” means a tenant’s legal representative as defined in section 231B.1 or 231C.2, or a guardian, conservator, or attorney in fact of a resident.

k. “*Long-term care facility*” means a long-term care unit of a hospital or a facility licensed under section 135C.1 whether the facility is public or private.

l. “*Older individual*” means an individual who is sixty years of age or older.

m. “*Resident*” means a resident or tenant of a long-term care facility, assisted living program, or elder group home, excluding facilities licensed primarily to serve persons with mental retardation or mental illness.

n. “*Unit of general purpose local government*” means a political subdivision of the state whose authority is general and not limited to one function or combination of related functions.

2. For the purposes of this chapter, “*focal point*”, “*greatest economic need*”, and “*greatest social need*” mean as those terms are defined in the federal Act.

86 Acts, ch 1245, §1004

C87, §249D.4

C93, §231.4

2003 Acts, ch 141, §2; 2005 Acts, ch 45, §3; 2009 Acts, ch 23, §15; 2010 Acts, ch 1062, §3, 4; 2011 Acts, ch 25, §143

[T] Code editor directive applied

**231.5 through 231.10** Reserved.

## SUBCHAPTER II

### COMMISSION ON AGING

#### **231.11 Commission established.**

The commission on aging is established which shall consist of eleven members. One member each shall be appointed by the president of the senate, after consultation with the majority leader of the senate, and by the minority leader of the senate, from the members of the senate to serve as ex officio, nonvoting members. One member each shall be appointed by the speaker of the house of representatives and by the minority leader of the house of representatives, from the members of the house of representatives to serve as ex officio, nonvoting members. Seven members shall be appointed by the governor subject to confirmation by the senate. Not more than a simple majority of the governor’s appointees shall belong to the same political party. At least four of the seven members appointed by the governor shall be fifty-five years of age or older when appointed.

86 Acts, ch 1245, §1005

C87, §249D.11

90 Acts, ch 1223, §22

C93, §231.11

2008 Acts, ch 1156, §32, 58; 2009 Acts, ch 23, §16

[P] Confirmation, see §2.32

#### **231.12 Terms.**

All members of the commission appointed by the governor shall be appointed for terms of four years, with staggered expiration dates. The terms of office of members appointed by the governor shall commence and end as provided by section 69.19. Legislative members of the commission shall serve terms of office as provided in section 69.16B. A vacancy on the commission shall be filled for the unexpired term of the vacancy in the same manner as the

original appointment was made. If a legislative member ceases to be a member of the general assembly the legislative member may continue to serve until a successor is appointed.

86 Acts, ch 1245, §1006

C87, §249D.12

88 Acts, ch 1134, §59

C93, §231.12

2008 Acts, ch 1156, §33, 58

### **231.13 Meetings — officers.**

Members of the commission shall elect from the commission's membership a chairperson, and other officers as commission members deem necessary, who shall serve for a period of two years. The commission shall meet at regular intervals at least four times each year and may hold special meetings at the call of the chairperson or at the request of a majority of the commission membership. The commission shall meet at the seat of government or such other place as the commission may designate. Members shall be paid a per diem as specified in section 7E.6 and shall receive reimbursement for actual expenses for their official duties.

86 Acts, ch 1245, §1007

C87, §249D.13

90 Acts, ch 1256, §42

C93, §231.13

2003 Acts, ch 141, §3

### **231.14 Commission duties and authority.**

1. The commission is the policymaking body of the sole state agency responsible for administration of the federal Act. The commission shall:

- a. Approve state and area plans on aging.
- b. Adopt policies to coordinate state activities related to the purposes of this chapter.
- c. Serve as an effective and visible advocate for older individuals by establishing policies for reviewing and commenting upon all state plans, budgets, and policies which affect older individuals and for providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals.
- d. Divide the state into distinct planning and service areas after considering the geographical distribution of older individuals in the state, the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal services, the distribution of older individuals who have low incomes residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the state which are drawn for the planning or administration of supportive services programs, the location of units of general purpose, local government within the state, and any other relevant factors.
- e. Designate for each planning and service area a public or private nonprofit agency or organization as the area agency on aging for that area.
- f. Adopt policies to assure that the department will take into account the views of older individuals in the development of policy.
- g. Adopt a formula for the distribution of federal Act, state services for older individuals, and senior living program funds taking into account, to the maximum extent feasible, the best available data on the geographic distribution of older individuals in the state, and publish the formula for review and comment.
- h. Adopt policies and measures to assure that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals.
- i. Adopt policies to administer state programs authorized by this chapter.

2. The commission shall adopt administrative rules pursuant to chapter 17A to administer the duties specified in this chapter and in all other chapters under the department's jurisdiction.

86 Acts, ch 1245, §1008

C87, §249D.14

88 Acts, ch 1073, §1

C93, §231.14

2003 Acts, ch 141, §4; 2005 Acts, ch 45, §4, 5; 2009 Acts, ch 23, §17; 2009 Acts, ch 41, §263

**231.15 through 231.20** Reserved.

### SUBCHAPTER III

#### DEPARTMENT ON AGING

##### **231.21 Department on aging.**

An Iowa department on aging is established which shall administer this chapter under the policy direction of the commission on aging. The department on aging shall be administered by a director.

86 Acts, ch 1245, §1009

C87, §249D.21

C93, §231.21

2009 Acts, ch 23, §18

##### **231.22 Director.**

1. The governor, subject to confirmation by the senate, shall appoint a director of the department on aging who shall, subject to chapter 8A, subchapter IV, employ and direct staff as necessary to carry out the powers and duties created by this chapter. The director shall serve at the pleasure of the governor. However, the director is subject to reconfirmation by the senate as provided in section 2.32, subsection 4. The governor shall set the salary for the director within the range set by the general assembly.

2. The director shall have the following qualifications and training:

a. Training in the field of gerontology, social work, public health, public administration, or other related fields.

b. Direct experience or extensive knowledge of programs and services related to older individuals.

c. Demonstrated understanding and concern for the welfare of older individuals.

d. Demonstrated competency and recent working experience in an administrative, supervisory, or management position.

86 Acts, ch 1245, §1010

C87, §249D.22

C93, §231.22

2003 Acts, ch 145, §214; 2008 Acts, ch 1031, §107; 2009 Acts, ch 23, §19

##### **231.23 Department on aging — duties and authority.**

The department on aging director shall:

1. Develop and administer a state plan on aging.

2. Assist the commission in the review and approval of area plans.

3. Pursuant to commission policy, coordinate state activities related to the purposes of this chapter and all other chapters under the department's jurisdiction.

4. Advocate for older individuals by reviewing and commenting upon all state plans, budgets, laws, rules, regulations, and policies which affect older individuals and by providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals.

5. Assist the commission in dividing the state into distinct planning and service areas.

6. Assist the commission in designating for each area a public or private nonprofit agency or organization as the area agency on aging for that area.

7. Pursuant to commission policy, take into account the views of older Iowans.

8. Assist the commission in adopting a formula for the distribution of funds available from the federal Act.

9. Assist the commission in assuring that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals.

10. Assist the commission in developing, adopting, and enforcing administrative rules, by issuing necessary forms and procedures.

11. Apply for, receive, and administer grants, devises, donations, gifts, or bequests of real or personal property from any source to conduct projects consistent with the purposes of the department. Notwithstanding section 8.33, moneys received by the department pursuant to this section are not subject to reversion to the general fund of the state.

12. Administer state authorized programs.

13. Provide annual training for area agency on aging board of directors members.

14. Establish a procedure for an area agency on aging to use in selection of members of the agency's board of directors. The selection procedure shall be incorporated into the bylaws of the board of directors.

15. Provide oversight to ensure that the composition of the area agency on aging board of directors complies with the rules of the department.

86 Acts, ch 1245, §1011

C87, §249D.23

C93, §231.23

2003 Acts, ch 141, §5; 2005 Acts, ch 45, §6; 2006 Acts, ch 1184, §106; 2007 Acts, ch 81, §1; 2009 Acts, ch 23, §20, 21

#### **231.23A Programs and services.**

The department on aging shall provide or administer, but is not limited to providing or administering, all of the following programs and services:

1. Services for older individuals including but not limited to home and community-based services such as adult day, assessment and intervention, transportation, chore, counseling, homemaker, material aid, personal care, reassurance, respite, visitation, caregiver support, emergency response system, mental health outreach, and home repair.

2. The senior internship program.

3. The case management program for frail elders.

4. The aging and disability resource center program.

5. The legal assistance development program.

6. The nutrition program.

7. Administration relating to the office of long-term care resident's advocate and training for resident advocate committees.

8. Administration relating to the area agencies on aging.

9. Elder abuse prevention, detection, intervention, and awareness including neglect and exploitation.

10. Other programs and services authorized by law.

2003 Acts, ch 141, §6; 2005 Acts, ch 42, §5; 2005 Acts, ch 45, §7; 2006 Acts, ch 1010, §69; 2009 Acts, ch 23, §22; 2010 Acts, ch 1062, §5

[P] Elder abuse initiative, see §231.56A

#### **231.24 Certified retirement communities.**

1. *Program purpose.*

a. The department shall establish a certified retirement communities program to recognize communities in the state that have made themselves attractive destinations for retirees.

b. The purposes of the program shall be to encourage retirees to make their home in Iowa, to help communities promote and market themselves as retirement destinations for retirees, to assist the economic development of rural communities by encouraging retirees to live, work, and volunteer there, and to encourage tourism in Iowa by enhancing the marketing of the state to retirees everywhere.

2. *Program fund.*

a. A certified retirement communities fund is created in the general fund of the state under

the control of the department consisting of fees collected from applicants to the certified retirement communities program.

b. Moneys in the fund are appropriated to the department for purposes of administering the certified retirement communities program.

c. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on moneys in the fund shall be credited to the fund.

### 3. *Eligibility.*

a. A community in the state is eligible to be named a certified retirement community. For purposes of this section, “community” includes but is not limited to a city, county, region, neighborhood, or district. For purposes of this section, a community can, but need not, be coterminous with a political subdivision of the state or with a particular geographic boundary. In an application for recognition as a certified retirement community, the applicant shall clearly articulate how the applicant defines community for purposes of seeking certification.

b. The department is encouraged to collaborate with the Iowa cooperative extension service in agriculture and home economics at Iowa state university of science and technology in the development of an outreach program to assist communities seeking certification.

4. *Applications.* Each community seeking certification shall meet the following requirements:

a. The community shall submit an application to the department containing basic demographic and statistical information including crime statistics, tax-related information, recreational opportunities, housing prices and availability, health care and emergency medical service availability, and other factors deemed relevant by the department.

b. The community shall demonstrate the support and active involvement of the local governing body, churches, clubs, businesses, media outlets, or other entities with an interest in the future of the community.

c. The community shall submit with the application a plan describing the community’s long-term care facility and service capabilities and the community’s strategy for marketing the community to retirees. The plan shall include a target market, a list of competing communities, an analysis of the community’s strengths, weaknesses, opportunities, and dangers, and the steps the community will employ to achieve the goals of the plan.

d. The department may determine and collect a reasonable application fee for the program.

### 5. *Application review.*

a. The department shall accept and review applications for certification and determine which communities qualify for certification.

b. In determining which communities qualify, the department shall develop a set of criteria for evaluating and scoring the applicants and comparing each applicant against the other applicants. The criteria developed by the department shall include all of the following:

- (1) The competitiveness of the tax burden on residents in the community.
- (2) Housing availability and cost.
- (3) Climatic factors.
- (4) Personal and community safety.
- (5) Work, volunteer, and community service opportunities.
- (6) Health care and emergency medical services available to residents of the community.
- (7) Public transportation and transportation infrastructure.
- (8) Educational quality and opportunities.
- (9) Recreational and leisure opportunities.
- (10) The availability of cultural and performing arts, sporting events, festivals, and other activities.
- (11) The availability of services and facilities necessary to assist retirees as they age.

6. *Recognition and assistance.* If the department determines that a community qualifies for certification, the department shall issue to the community a certificate recognizing the status of the community as an attractive destination for retirees.

### 7. *Expiration and recertification.*

a. A community’s certification expires on the fifth anniversary of the date of initial certification.

b. To be recertified, a community must submit a new application as described in subsection 4 and include a report on the success or failure of the community's past efforts to market itself to retirees.

8. *Rules.* The department shall adopt rules for the administration of this section.

9. *Program administration deferral.* The department may defer the implementation of the certified retirement communities program until such time as the department has the resources to administer the program, as determined by the director.

2009 Acts, ch 152, §1; 2010 Acts, ch 1192, §50, 73

**231.25 through 231.30** Reserved.

#### SUBCHAPTER IV

#### PLANNING AND SERVICE DELIVERY

##### **231.31 State plan on aging.**

The department on aging shall develop, and submit to the commission on aging for approval, a multiyear state plan on aging. The state plan on aging shall meet all applicable federal requirements.

86 Acts, ch 1245, §1012

C87, §249D.31

C93, §231.31

2003 Acts, ch 141, §7; 2009 Acts, ch 23, §23

##### **231.32 Criteria for designation of area agencies on aging.**

1. The commission shall designate thirteen area agencies on aging, the same of which existed on July 1, 1985. The commission shall continue the designation until an area agency on aging's designation is removed for cause as determined by the commission or until the agency voluntarily withdraws as an area agency on aging. In that event, the commission shall proceed in accordance with subsections 2, 3, and 4. Designated area agencies on aging shall comply with the requirements of the federal Act.

2. The commission shall designate an area agency to serve each planning and service area, after consideration of the views offered by units of general purpose local government. An area agency may be:

a. An established office of aging which is operating within a planning and service area designated by the commission.

b. Any office or agency of a unit of general purpose local government, which is designated for the purpose of serving as an area agency by the chief elected official of such unit.

c. Any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act on behalf of the combination for such purpose.

d. Any public or nonprofit private agency in a planning and service area or any separate organizational unit within such agency which is under the supervision or direction for this purpose of the department on aging and which can engage in the planning or provision of a broad range of supportive services or nutrition services within the planning and service area.

3. When the commission designates a new area agency on aging the commission shall give the right of first refusal to a unit of general purpose local government if:

a. Such unit can meet the requirements of subsection 1.

b. The boundaries of such a unit and the boundaries of the area are reasonably contiguous.

4. Each area agency shall provide assurance, determined adequate by the commission, that the area agency has the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area, the commission shall give preference to an established office of aging, unless



the commission finds that no such office within the planning and service area has the capacity to carry out the area plan.

86 Acts, ch 1245, §1013

C87, §249D.32

C93, §231.32

2003 Acts, ch 141, §8; 2009 Acts, ch 23, §24; 2009 Acts, ch 41, §230; 2009 Acts, ch 133, §218, 219; 2010 Acts, ch 1069, §66, 147

### **231.33 Area agencies on aging duties.**

Each area agency on aging shall:

1. Develop and administer an area plan on aging.
2. Assess the types and levels of services needed by older individuals and their caregivers in the planning and service area, and the effectiveness of other public or private programs serving those needs.
3. Enter into subgrants or contracts to provide services under the plan.
4. Provide technical assistance as needed, document quarterly monitoring, and provide a written report of an annual on-site assessment of all service providers funded by the area agency.
5. Coordinate the administration of its plan with federal programs and with other federal, state, and local resources in order to develop a comprehensive and coordinated service system.
6. Establish an advisory council.
7. Give preference in the delivery of services under the area plan to older individuals with the greatest economic or social need.
8. Assure that older individuals and their caregivers in the planning and service area have reasonably convenient access to information and assistance services.
9. Provide adequate and effective opportunities for older individuals to express their views to the area agency on policy development and program implementation under the area plan.
10. Designate community focal points.
11. Contact outreach efforts, with special emphasis on rural older individuals, to identify older individuals with greatest economic or social needs and inform them of the availability of services under the area plan.
12. Develop and publish the methods that the agency uses to establish preferences and priorities for services.
13. Submit all fiscal and performance reports in accordance with the policies of the commission.
14. Monitor, evaluate, and comment on laws, rules, regulations, policies, programs, hearings, levies, and community actions which significantly affect the lives of older individuals.
15. Conduct public hearings on the needs of older individuals and their caregivers.
16. Represent the interests of older individuals and their caregivers to public officials, public and private agencies, or organizations.
17. Coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for older individuals.
18. Coordinate planning with other agencies for assuring the safety of older individuals in a natural disaster or other safety threatening situation.
19. Incorporate into the bylaws of the area agency's board of directors and comply with the procedure established by the department for selection of members to the board of directors as provided in section 231.23.
20. Provide the opportunity for older individuals residing in the planning and service area to offer substantive suggestions regarding the employment practices of the area agency on aging.

86 Acts, ch 1245, §1014

C87, §249D.33

89 Acts, ch 241, §6

C93, §231.33

99 Acts, ch 129, §12; 2003 Acts, ch 141, §9; 2005 Acts, ch 45, §8, 9; 2006 Acts, ch 1184, §107; 2007 Acts, ch 218, §38; 2009 Acts, ch 23, §25; 2010 Acts, ch 1192, §51, 73

**231.34 Limitation of funds used for administrative purposes.**

Of the state funds appropriated or allocated to the department for programs of the area agencies on aging, not more than seven and one-half percent of the total amount shall be used for area agencies on aging administrative purposes.

2005 Acts, ch 175, §100

**231.35 through 231.40** Reserved.

## SUBCHAPTER V

### LONG-TERM CARE RESIDENT'S ADVOCATE

**231.41 Purpose.**

The purpose of this subchapter is to establish the office of long-term care resident's advocate within the department in accordance with the requirements of the federal Act, and to adopt the supporting federal regulations and guidelines for its operation.

86 Acts, ch 1245, §1015

C87, §249D.41

C93, §231.41

2003 Acts, ch 141, §10; 2009 Acts, ch 23, §26; 2010 Acts, ch 1062, §6

**231.42 Office of long-term care resident's advocate — duties — penalties for violations.**

1. *Office established.* The office of long-term care resident's advocate is established within the department, in accordance with section 712 of the federal Act, as codified at 42 U.S.C. § 3058g. The office shall consist of the state long-term care resident's advocate and any local long-term care resident's advocates.

2. *State long-term care resident's advocate.* The director of the department shall appoint the state long-term care resident's advocate who shall do all of the following:

a. Establish and implement a statewide confidential uniform reporting system for receiving, analyzing, referring, investigating, and resolving complaints about administrative actions and the health, safety, welfare, and rights of residents or tenants of long-term care facilities, assisted living programs, and elder group homes, excluding facilities licensed primarily to serve persons with mental retardation or mental illness.

b. Publicize the office of long-term care resident's advocate and provide information and education to consumers, the public, and other agencies about issues related to long-term care in Iowa.

c. Monitor the development and implementation of federal, state, and local laws, regulations, and policies that relate to long-term care in Iowa.

d. Annually report to the governor and general assembly on the activities of the office and make recommendations for improving the health, safety, welfare, and rights of residents and tenants of long-term care facilities, assisted living programs, and elder group homes.

e. Cooperate with persons and public or private agencies with regard to, and participate in, inquiries, meetings, or studies that may lead to improvements in the health, safety, welfare, and rights of residents and tenants and the functioning of long-term care facilities, assisted living programs, and elder group homes.

f. Recruit, train, educate, support, and monitor volunteers associated with the office.

3. *Local long-term care resident's advocates.* The local long-term care resident's advocates established pursuant to this section shall do all of the following:

a. Accept, investigate, verify, and work to resolve complaints, whether reported to or initiated by a long-term care resident's advocate, relating to any action or inaction that may

adversely affect the health, safety, welfare, or rights of residents or tenants of a long-term care facility, assisted living program, or elder group home.

b. Provide information about long-term care, the rights of residents and tenants, payment sources for care, and selection of a long-term care facility, assisted living program, or elder group home to providers, consumers, family members, volunteers, and the public.

c. Make referrals to appropriate licensing, certifying, and enforcement agencies to assure appropriate investigation of abuse complaints and corrective actions.

d. Assist in the recruitment, training, education, support, and monitoring of volunteers associated with the office of the long-term care resident's advocate.

e. Make noncomplaint-related visits to long-term care facilities, assisted living programs, and elder group homes to observe daily routines, meals, and activities, and work to resolve complaints if any are identified during these visits.

4. *Referrals of abuse, neglect, or exploitation.*

a. If abuse, neglect, or exploitation of a resident or tenant of a long-term care facility, assisted living program, or elder group home is suspected, the state or a local long-term care resident's advocate shall, with the permission of the resident or tenant as applicable under federal law, make an immediate referral to the department of inspections and appeals or the department of human services as applicable, and to the appropriate law enforcement agency. The state or a local long-term care resident's advocate shall cooperate, if requested, with the department of inspections and appeals, department of human services, or any law enforcement agency pursuant to any investigation of such abuse, neglect, or exploitation.

b. If the department of inspections and appeals responds to a complaint referred by the state or a local long-term care resident's advocate against a long-term care facility, assisted living program, elder group home, or an employee of such entity, copies of related inspection reports, plans of correction, and notice of any citations and sanctions levied against the facility, program, or home shall be forwarded to the office of the long-term care resident's advocate.

5. *Access to facility, program, or home.* The state or a local long-term care resident's advocate or a trained volunteer may enter any long-term care facility, assisted living program, or elder group home at any time with or without prior notice or complaint and shall be granted access to residents and tenants at all times for the purpose of carrying out the duties specified in this section. As used in this section, "access" means the right to do all of the following:

a. Enter any long-term care facility, assisted living program, or elder group home and provide identification.

b. Seek consent to communicate privately and without restriction with any resident or tenant.

c. Communicate privately and without restriction with any resident, tenant, legal representative, or other representative who consents to communication.

d. Review the clinical or other records of a resident or tenant.

e. Observe all resident or tenant areas of a facility, program, or housing establishment except the living area of any resident or tenant who protests the observation.

6. *Access to medical and personal records.*

a. The state or a local long-term care resident's advocate shall have access to the medical and personal records of an individual who is a resident or tenant of a long-term care facility, assisted living program, or elder group home retained by the facility, program, or home.

b. Records may be reproduced by the state or a local long-term care resident's advocate.

c. Upon request of the state or a local long-term care resident's advocate, a long-term care facility, assisted living program, or elder group home shall provide the name, address, and telephone number of the legal representative or next of kin of any resident or tenant.

d. A long-term care facility, assisted living program, or elder group home or personnel of such a facility, program, or home who discloses records in compliance with this section and the procedures adopted pursuant to this section shall not be liable for such disclosure.

7. *Interference prohibited — penalties.*

a. An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who intentionally prevents, interferes with, or attempts to impede the work of the state or a local long-term care resident's advocate is subject to a

penalty imposed by the director of not more than one thousand five hundred dollars for each violation. If the director imposes a penalty for a violation under this paragraph, no other state agency shall impose a penalty for the same interference violation. Any moneys collected pursuant to this subsection shall be deposited in the general fund of the state.

b. The office of the long-term care resident's advocate shall adopt rules specifying procedures for notice and appeal of penalties imposed pursuant to this subsection.

c. The director, in consultation with the office of the long-term care resident's advocate, shall notify the county attorney of the county in which the long-term care facility, assisted living program, or elder group home is located, or the attorney general, of any violation of this subsection.

8. *Retaliation prohibited — penalties.* An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home shall not retaliate against any person for having filed a complaint with, or provided information to, the state or a local long-term care resident's advocate. A person who retaliates or discriminates in violation of this subsection is guilty of a simple misdemeanor.

9. *Change in operations.* A long-term care facility, assisted living program, or elder group home shall inform the office of the long-term care resident's advocate in writing at least thirty days prior to any change in operations, programs, services, licensure, or certification that affects residents or tenants, including but not limited to the intention to close, decertify, or change ownership. In an emergency situation, or when a long-term care facility, assisted living program, or elder group home is evacuated, the department of inspections and appeals shall notify the office of the state long-term care resident's advocate.

10. *Immunity.* The state or a local long-term care resident's advocate or any representative of the office participating in the good faith performance of their official duties shall have immunity from any civil or criminal liability that otherwise might result by reason of taking, investigating, or pursuing a complaint under this section.

11. *Confidentiality.* Information relating to any complaint made to or investigation by the state or a local long-term care resident's advocate that discloses the identity of a complainant, resident, or tenant, or information related to a resident's or tenant's personal or medical records, shall remain confidential except as follows:

a. If permission is granted by the director in consultation with the state long-term care resident's advocate.

b. If disclosure is authorized in writing by the complainant and the resident, tenant, or the individual's guardian or legal representative.

c. If disclosure is necessary for the provision of services to a resident or tenant, or the resident or tenant is unable to express written or oral consent.

d. If ordered by a court.

12. *Posting of state long-term care resident's advocate information.* Every long-term care facility, assisted living program, and elder group home shall post information in a prominent location that includes the name, address, and telephone number, and a brief description of the services provided by the office of the long-term care resident's advocate. The information posted shall be approved or provided by the office of the long-term care resident's advocate.

86 Acts, ch 1245, §1016

C87, §249D.42

C93, §231.42

99 Acts, ch 129, §13; 2003 Acts, ch 141, §11; 2005 Acts, ch 45, §10; 2009 Acts, ch 23, §27 – 29; 2009 Acts, ch 41, §93; 2010 Acts, ch 1062, §7

**231.43 Authority and responsibilities of the commission.** Repealed by 2010 Acts, ch 1062, § 10.

**231.44 Resident advocate committee — duties — disclosure — liability.**

1. The resident advocate committee volunteer program is administered by the office of the long-term care resident's advocate. The state and any local long-term care resident's advocate shall provide information, assistance, and support to resident advocate committee program volunteers to the extent possible. If funding becomes insufficient to process applications and

new appointments to resident advocate committees can no longer be made, the director shall notify the director of the department of inspections and appeals. A health care facility shall not be found in violation of section 135C.25 for not having a resident advocate committee if new appointments cannot be made as documented in accordance with this subsection.

2. The responsibilities of the resident advocate committee are in accordance with the rules adopted by the commission pursuant to chapter 17A. When adopting the rules, the commission shall consider the needs of residents of elder group homes as defined in section 231B.1 and each category of licensed health care facility as defined in section 135C.1, subsection 6, and the services each facility may render. The commission shall coordinate the development of appropriate rules with other state agencies.

3. An elder group home or long-term care facility shall disclose the names, addresses, and phone numbers of a resident's family members, if requested, to a resident advocate committee member, unless permission for this disclosure is refused in writing by a family member.

4. The state, any resident advocate committee member, and any local long-term care resident's advocate are not liable for an action undertaken by a resident advocate committee member or a local long-term care resident's advocate in the performance of duty, if the action is undertaken and carried out reasonably and in good faith.

86 Acts, ch 1245, §1018

C87, §249D.44

87 Acts, ch 70, §2; 88 Acts, ch 1068, §3

C93, §231.44

94 Acts, ch 1170, §46; 99 Acts, ch 129, §14; 2003 Acts, ch 141, §12; 2004 Acts, ch 1090, §13; 2005 Acts, ch 45, §12; 2009 Acts, ch 23, §31; 2010 Acts, ch 1062, §8

**231.45 through 231.50** Reserved.

## SUBCHAPTER VI

### PROGRAMS

#### **231.51 Older American community service employment program.**

1. The department shall direct and administer the older American community service employment program as authorized by the federal Act in coordination with the department of workforce development and the economic development authority.

2. The purpose of the program is to foster individual economic self-sufficiency and to increase the number of participants placed in unsubsidized employment in the public and private sectors while maintaining the community service focus of the program.

3. Funds appropriated to the department from the United States department of labor shall be distributed to local projects in accordance with federal requirements.

4. The department shall require such uniform reporting and financial accounting by area agencies on aging and local projects as may be necessary to fulfill the purposes of this section.

86 Acts, ch 1245, §1019

C87, §249D.51

C93, §231.51

96 Acts, ch 1186, §23; 2002 Acts, ch 1058, §1; 2005 Acts, ch 45, §13; 2011 Acts, ch 118, §85, 89

[T] Code editor directive applied

#### **231.52 Senior internship program.**

1. The department shall administer the senior internship program in consultation with the department of workforce development to encourage and promote work training programs leading to the employment of older individuals.

2. Funds appropriated to the department for this purpose shall be distributed according to administrative rules by the commission.

3. The department shall require such uniform reporting and financial accounting by contractors as may be necessary to fulfill the purposes of this section.

86 Acts, ch 1245, §1020

C87, §249D.52

C93, §231.52

96 Acts, ch 1186, §23; 2002 Acts, ch 1058, §2; 2009 Acts, ch 23, §32

### **231.53 Coordination with Workforce Investment Act.**

The senior internship program shall be coordinated with the federal Workforce Investment Act administered by the department of workforce development.

2002 Acts, ch 1058, §3; 2009 Acts, ch 23, §33

**231.54** Repealed by 2003 Acts, ch 141, § 16.

**231.55** Repealed by 2005 Acts, ch 42, § 6. See § 15H.2.

### **231.56 Services and programs.**

The department shall administer services and programs to reduce institutionalization and encourage community involvement to help older individuals remain in their own homes. Funds appropriated for this purpose shall be instituted based on administrative rules adopted by the commission. The department shall require such records as needed to administer this section.

86 Acts, ch 1245, §1024

C87, §249D.56

C93, §231.56

2005 Acts, ch 45, §14; 2009 Acts, ch 23, §34

### **231.56A Elder abuse initiative, emergency shelter, and support services projects.**

1. Through the state's service contract process adopted pursuant to section 8.47, the department shall identify entities that have demonstrated the ability to provide a collaborative response to the immediate needs of older individuals for the purpose of implementing elder abuse initiative, emergency shelter, and support services projects. The projects shall be coordinated in service areas that have a multidisciplinary team established pursuant to section 235B.1, where available.

2. The target population of the projects shall be any older individual residing in Iowa who is at risk of or who is experiencing abuse, neglect, or exploitation which may include but is not limited to an older individual who is the subject of a report of suspected dependent adult abuse pursuant to chapter 235B. This subsection shall not apply to an older individual who is receiving assistance under a county management plan approved pursuant to section 331.439.

3. The contractor implementing the projects shall identify allowable emergency shelter and support services, state funding, outcomes, reporting requirements, and approved community resources from which services may be obtained under the projects.

4. The contractor shall implement the projects and shall coordinate the provider network through the use of referrals or other engagement of community resources to provide services to older individuals.

5. The department shall award funds to the contractor in accordance with the state's service contract process and department rule. Receipt and expenditures of moneys under the projects are subject to examination, including audit, by the department.

6. This section shall not be construed and is not intended as, and shall not imply, a grant of entitlement for services to individuals who are not otherwise eligible for the services or for utilization of services that do not currently exist or are not otherwise available.

2003 Acts, ch 98, §1; 2003 Acts, ch 179, §67; 2009 Acts, ch 23, §35

### **231.57 Coordination of advocacy.**

The department shall administer a program for the coordination of information and assistance provided within the state to assist older individuals and their caregivers in

obtaining and protecting their rights and benefits. State and local agencies providing information and assistance to older individuals and their caregivers in seeking their rights and benefits shall cooperate with the department in administering this program.

86 Acts, ch 1245, §1025

C87, §249D.57

C93, §231.57

2003 Acts, ch 141, §13; 2009 Acts, ch 23, §36

#### **231.58 Long-term living coordination.**

The director may convene meetings, as necessary, of the director and the directors of human services, public health, and inspections and appeals, to assist in the coordination of policy, service delivery, and long-range planning relating to the long-term living system and older Iowans in the state. The group may consult with individuals, institutions and entities with expertise in the area of the long-term living system and older Iowans, as necessary, to facilitate the group's efforts.

86 Acts, ch 1245, §1026

C87, §249D.58

89 Acts, ch 52, §1

C93, §231.58

2000 Acts, ch 1004, §13, 22; 2003 Acts, ch 141, §14; 2003 Acts, ch 145, §215; 2005 Acts, ch 45, §15; 2008 Acts, ch 1156, §34, 58; 2009 Acts, ch 23, §37, 38; 2009 Acts, ch 182, §90

**231.59 and 231.60** Repealed by 2003 Acts, ch 141, § 16.

**231.61** Repealed by 2003 Acts, ch 165, § 20. See chapter 231D.

#### **231.62 Alzheimer's disease services and training.**

1. The department shall regularly review trends and initiatives to address the long-term living needs of Iowans to determine how the needs of persons with Alzheimer's disease and similar forms of irreversible dementia can be appropriately met.

2. The department shall act within the funding available to the department to expand and improve training and education of persons who regularly deal with persons with Alzheimer's disease and similar forms of irreversible dementia. Such persons shall include but are not limited to law enforcement personnel, long-term care resident's advocates, state employees with responsibilities for oversight or monitoring of agencies providing long-term care services, and workers and managers in services providing direct care to such persons, such as nursing facilities and other long-term care settings, assisted living programs, elder group homes, residential care facilities, adult day facilities, and home health care services. The actions shall include but are not limited to adopting rules.

3. The department shall adopt rules to implement all of the following training and education provisions:

a. Standards for initial hours of training for direct care staff, which shall require at least eight hours of classroom instruction and at least eight hours of supervised interactive experiences.

b. Standards for continuing and in-service education for direct care staff, which shall require at least eight hours annually.

c. Standards which provide for assessing the competency of those who have received training.

d. A standard curriculum model for the training and education. The curriculum model shall include but is not limited to the diagnosis process; progression of the disease; skills for communicating with persons with the disease, family members and friends, and caregivers; daily life skills; caregiver stress; the importance of building relationships and understanding personal histories; expected challenging behaviors; nonpharmacologic interventions; and medication management.

e. A certification process which shall be implemented for the trainers and educators who use the standard curriculum model.

4. The department shall conduct a statewide campaign to educate health care providers regarding tools and techniques for early detection of Alzheimer's disease and similar forms of irreversible dementia so that patients and their families will better understand the progression of such disease.

5. Within the funding available, the department shall provide funding for public awareness efforts and educational efforts for agencies providing long-term care services, direct care workers, caregivers, and state employees with responsibilities for providing oversight or monitoring of agencies providing long-term care services. The department shall work with local Alzheimer's disease association chapters and other stakeholders in providing the funding.

2008 Acts, ch 1140, §2; 2011 Acts, ch 34, §57

[T] Subsection 3, unnumbered paragraph 1 amended

#### **231.63 End-of-life care information.**

1. The department shall consult with the Iowa medical society, the Iowa end-of-life coalition, the Iowa hospice organization, the university of Iowa palliative care program, and other health care professionals whose scope of practice includes end-of-life care to develop educational and patient-centered information on end-of-life care for terminally ill patients and health care professionals.

2. For the purposes of this section, "*end-of-life care*" means care provided to meet the physical, psychological, social, spiritual, and practical needs of terminally ill patients and their caregivers.

2008 Acts, ch 1188, §30

#### **231.64 Aging and disability resource center program.**

The aging and disability resource center program shall be administered by the department in accordance with the requirements of the federal Act. The purpose of the program is to provide a coordinated local system of information and access in order to minimize confusion, enhance individual choice, and support informed decision making for older individuals, persons with disabilities age eighteen or older, and people who inquire about, or request assistance on behalf of, members of these groups as they seek long-term care services and supports.

2009 Acts, ch 23, §39

#### **231.65 Legal assistance development program.**

A legal assistance development program shall be administered by the department in accordance with the requirements of the federal Act. The purpose of the program is to provide leadership for improving the quality and quantity of legal advocacy assistance as a means of ensuring a comprehensive elder rights system for Iowa's older individuals. The extent of implementation of this program shall be based on available resources.

2009 Acts, ch 23, §40

#### **231.66 Nutrition program.**

A nutrition program shall be administered by the department, in accordance with the requirements of the federal Act, including congregate and home-delivered nutrition programs, nutrition education, nutrition counseling, and evidence-based health promotion programs to promote health and well-being, reduce food insecurity, promote socialization, and maximize independence of older individuals.

2009 Acts, ch 23, §41